IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.1531 OF 2003

Rajesh Dinkar Chaskar .. Petitioner

Versus

Yadavrao Maruti Padwal & Anr. .. Respondents

Mr.Ganesh Gole for petitioner

Mr.U.B.Nighot for respondent No.1

Mr.S.S.Pednekar, A.P.P. for State.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 12th October 2006.

P.C.

. By this petition under article 227 of Constitution of India read with section 482 Cr.P.C., the petitioner challenges the order

dated 26th May 2003 passed by the 4th Ad-hoc Additional Sessions Judge, Pune in Criminal Revision Application No.241 of 2000. The petition is filed on 25th September 2003. It appears that the same was not mentioned for admission and, therefore, could not be listed and rather was not listed for over three years.

2. That apart, the petitioner complainant had filed a complaint on 12th March 1997 against first respondent accused alleging offences punishable under section 341, 363, 323, 504 and 506 read with 120B of I.P.C. The complaint was filed with Manchar Police Station, Pune. The Judicial Magistrate, F.C. Ghodegaon passed an order dated 19th January 2000 and instead of granting "B" Summary, he granted "C" Summary. The submission of Mr.Gole is that while passing the order, he has observed that there is some evidence to support the contentions of petitioner and hence, instead of "B" Summary "C" Summary

should be granted. It means that the complaint is neither true nor false.

3. Against this order two revision applications were filed one by the petitioner and other by the accused. The application preferred by the petitioner as also the accused were dismissed. The order of dismissal is dated 26th May 2003. Mr.Gole submits that the learned Additional Sessions Judge was fully aware of the fact that on the earlier occasion, the JMFC granted "B" Summary. That order was passed on 28th September 1997, it was construed to be a final order and Revision Application being Revision Application No.648 of 1998 was preferred challenging that order. The Revisional Court set aside that order and directed that the petitioner complainant be given a fresh opportunity along with accused and thereafter, the learned Judge should pass appropriate orders.

4. Mr.Gole submits that in such circumstances, the plain duty of the Magistrate was to direct investigations and thereafter, the authorities should proceed in accordance with law. Mere change of label is not what the grievance was but the petitioner original complainant having made out a case against the first respondent accused and the charge so also allegations being serious, the complaint should have been dealt with in accordance with law.

5. On the last occasion this matter was placed before me and despite the three years delay, I had directed issuance of notice and now the first respondent has filed a reply. Apart from contending that the relevant documents are not annexed, the first respondent has alleged that the complaint itself was instituted maliciously and on account of political vendetta. There is no evidence which would warrant any investigation and putting the accused to trial.

6. With the assistance of learned Advocate for both sides, I have perused the orders under challenge. In my view, considering that the revisional court had earlier remanded the matter by directing the trial court to give fresh opportunity to both and the same having been granted a pure finding on fact which is confirmed in revision by the learned Sessions Judge does not warrant any interference, in my writ as well as inherent jurisdiction. This is not a Court of Appeal. I cannot re-appraise and re-appeciate the materials and come to a different conclusion. Merely because another view is possible, it is not permissible to interfere.

7. Even otherwise, I do not find that the orders under challenge are vitiated by error apparent or perversity. The learned Additional Sessions Judge has observed that the investigating agency did conduct some

investigation. Even the local Crime Branch Pune was involved therein. Number of persons were interrogated and questioned. Despite such detailed investigation, the real culprits have not been revealed. The evidence collected is falling short to connect first respondent with the alleged kidnapping or abduction. I cannot now go into all materials again in my restricted jurisdiction. The finding of fact cannot be interfered with. Hence, petition is dismissed.

(S.C.Dharmadhikari, J)